IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 193 of 2005

Between:

C. Narasimhulu, S/o. Obulesu,
Madanapalli South, Madanapalli, Chittoor District.

..... PETITIONER

AND

1 The Divisional Electrical Engineer (Operation), Madanapally APSPDCL, Madanapalli.
2 The Superintendent Engineer (Operations), APSPDCL, Tirupathi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari calling for all the connected records including the impugned order of the first respondent in Memo No. DEO.MPL.ADM.S2.JAO D.No. 219/2005 dated 12-1-2005 and quash the same as illegal, improper, unjust, arbitrary and contrary to law.

Counsel for the Petitioner:MR.K.G.KRISHNA MURTHY

Counsel for the Respondents: MR.S.KISHORE

The Court at the admission stage made the following :

The Hon'ble Sri Justice

K.C. Bhanu

O R D E R:

Challenging the suspension order dated 12.1.2005 passed by the Divisional Electrical Engineer, 1st respondent herein, the present writ petition is filed.

The petitioner is working as Line Inspector, Madanapalli South, Chittoor District. He is alleged to have indulged in cheating and deceiving the innocent farmers and therefore disciplinary proceedings are contemplated against him and the 1st respondent having considered the available material and the facts and circumstances, placed the petitioner under suspension.

Two contentions have been raised by the learned counsel for the petitioner, firstly, that the order passed by the 1st respondent is without jurisdiction and, secondly, that the impugned order has been passed totally without application of mind.

The 1st respondent filed counter affidavit stating that he is the competent person to place an employee under suspension and in pursuance of the proceedings issued by the Chief General Manager, HRD, the impugned proceedings have been passed. Hence the order under challenge does not suffer from any legal infirmities.

Learned counsel for the petitioner as well as the learned counsel for the respondents placed reliance on the Schedule of Regulations of APSEB (Discipline & Appeal) Regulations with regard to the authorities who can place under suspension.

Normally this court will not interfere with the suspension order pending enquiry unless it is issued by the authority who lacks jurisdiction or when there is total non-application of mind in passing the impugned orders.

The petitioner filed reply affidavit stating that the Chief General Manager, HRD who is the appellate authority ought not to have issued direction to the 1st respondent which is also illegal. Several contentions have been raised with regard to the facts of the case in both the writ petition and also the reply affidavit. In my considered opinion they are not necessary for the purpose of disposal inasmuch as it is exclusively within the domain of the enquiry officer whether those allegations are true or false.

The Divisional Electrical Engineer (Operation), Madanapalle passed the impugned order stating that the petitioner has indulged in cheating and deceiving the innocent farmers. At the relevant point of time of passing the impugned order the petitioner was working as a Senior Line Inspector, South Madanapalle, Chittoor District. The Schedule of APSEB (Discipline & Appeal) Regulations deals with the competent authorities which may impose penalties. In respect of Class-III and Class-IV employees, it is the appointing authority/D.E/A.A.O. in respect of E.R.O. staff who can pass the order of suspension. Therefore, the above provision makes it clear that the D.E. can place an employee of Class-III and Class-IV under suspension. It is not disputed before this court that the petitioner comes in the category of Class-III.

However, learned counsel for the petitioner placed

strong reliance on the following paragraph which reads:

> 'Next above immediate superior officer in class II and class I in the Division. Superintending Engineer in the Circle Office; Chief Engineer in the Zonal Office & Headquarters. Asst. Accounts Officer in respect of staff working in E.R.O".

As seen from the Schedule, the above column applies only to the imposition of minor penalties but not major penalties. As seen from Column No.9, which relates to suspension of an employee i.e. major penalty, it is the appointing authority or D.E./A.A.O. in respect of E.R.O. staff. Therefore the contention of the learned counsel for the petitioner is wholly untenable and devoid of merit inasmuch as the Divisional Engineer is the authority who can place an employee who comes under Class-III and Class-IV under suspension.

With regard to non-application of mind by the 1st respondent, the 1st respondent sent a detailed report to the 2nd respondent. Basing on the said report submitted by the 1st respondent, the 2nd respondent requested the 1st respondent to place the petitioner under suspension in public interest. The Divisional Engineer himself conducted a preliminary enquiry to ascertain certain irregularities committed by the petitioner, recorded the statements and gave an opinion stating that all the allegations except the acceptance of money of irregular activities levelled against the petitioner are proved beyond any reasonable doubt. As per the Memo issued by the 2nd respondent dated 12.1.2005, which was

sent to the 1st respondent along with the copy of the initial report, the 1st respondent passed the impugned proceedings. The authority need not give all the details in the suspension order. As seen from the enquiry report, the statements of some of the farmers have been recorded wherein certain irregularities have come to light. Therefore, basing on the material available on record the 1st respondent came to the conclusion that the petitioner had indulged in deceiving and cheating the innocent farmers and therefore he was placed under suspension. So, it cannot be said that the impugned order has been passed without application of mind. Whether those allegations are true or false is required to be gone into by the Enquiry Officer in the departmental proceedings.

Therefore, the writ petition is totally devoid of merit and it is accordingly dismissed. In the circumstances, no costs.

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K.C. Bhanu, J.

Date:11 --02—2005.

MVB.

Date: 11—02—2005.

After pronouncement of the order, the learned counsel for the petitioner requested to give a direction to the respondents to complete the enquiry. There is no impediment for giving such a direction. Hence, the respondents are directed to complete the enquiry within a period of two weeks from the date of receipt of a

copy of this order.

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K.C. Bhanu, J.

Ksn.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Divisional ELectrical Engineer (Operation), Madanapally APSPDCL, Madanapalli.
2. The Superintendent Engineer (Operations), APSPDCL, Tirupathi, Chittoor District.

3. 2 CD copies.